

# bmj.com news roundup

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## Biological father declared the legal father in IVF mix up

A black man whose sperm was mistakenly used to fertilise the eggs of the wrong woman in a mix up during an in vitro fertilisation (IVF) procedure at a UK infertility clinic was last week declared the legal father of the mixed race twins who were born as a result.

Dame Elizabeth Butler-Sloss, president of the High Court's family division, ruled that the twins' biological father was also their legal father. The white mother and her husband, Mr and Mrs A, were undergoing ICSI (intracytoplasmic sperm injection) treatment at Leeds General Infirmary's assisted conception unit at the same time as a black couple, Mr and Mrs B. Through an error, Mr B's sperm was used to fertilise Mrs A's eggs.

The As asked the judge to declare Mr A the twins' legal father. Under the Human Fertilisation and Embryology Act, a man who undergoes treatment with his partner and consents to it becomes the legal father.

But Dame Elizabeth said Mr A had consented only to the placing of eggs fertilised with his sperm in his wife and not to the use of another man's sperm. Therefore he was not the twins' father under the act.

The As' solicitor, Andrea Dyer, said after the ruling that they would seek to adopt the twins.

Clare Dyer *legal correspondent, BMJ*

## Bayer is forced to release documents over withdrawal of cerivastatin

Pharmaceutical giant Bayer has, for the first time, been forced to release confidential company documents to the US courts in a damages case over the lipid lowering drug cerivastatin. The case, held in a Texan court, reveals just how much the company knew about the problems with the drug before withdrawing it in 2001.



## Anti-tobacco treaty rejected by two rich nations

All but two of the member states of the World Health Organization—the United States and Germany—agreed on Saturday to a tougher than expected global treaty to reduce tobacco consumption.

Health activists who recently accused negotiators of watering down the text as a result of pressure from the tobacco industry (22 February, p 412) welcomed it as a “major step forward in reversing the global tobacco epidemic.”

The agreement includes a comprehensive ban on tobacco advertising, marketing, and sponsorship (as pictured above); sets tough standards for health warnings on cigarette packets; and bans the use of “deceptive” descriptions such as “lights” and “low tar.”

Citing conflict with national laws and those governing freedom of speech, the United States and Germany said there were parts of the text they could not accept.

The two states cannot, however, stop the treaty being endorsed by health ministers at the World Health Assembly in May, but if Germany digs in its heels it could stop the rest of the European Union from joining the agreement—as the 15 EU states act as a block.

Fiona Fleck *Geneva*

Bayer withdrew cerivastatin (marketed as Baycol in the United States and Lipobay in Europe) from the US market and Europe in August 2001 and subsequently in Japan because of an increasing number of reports to the US Food and Drug Administration of rhabdomyolysis—a rare disorder in which muscle tissue breaks down and that can lead to organ failure and death—in patients who took the drug.

The plaintiffs' lawyers argue that these documents show that Bayer was aware of problems associated with Baycol since its approval by the FDA in 1997. However, occasional adverse reactions often occur with a new drug, and they are not necessarily grounds for withdrawal. More serious is a suggestion that not all adverse events were reported to the FDA, but Bayer says it

kept the FDA fully informed.

Complicating the issue is that some doctors prescribed cerivastatin along with another lipid lowering drug, gemfibrozil, despite a warning from the company that this could result in adverse reactions. By the time the company withdrew the drug in August 2001, it had been linked to 31 deaths.

Charles Marwick *Washington, DC*

## US drug sales grew 12% last year

Despite continuing pricing pressures and competition from generic drugs, total US pharmaceutical sales grew 12% last year to \$220bn (£140bn; €202bn), according to new data.

The pace of growth in US

sales of prescription products slowed in 2002, compared with the 18% increase in 2001, according to the *PharmaTrends 2002* report, released by healthcare tracking firm NDC Health.

The top five classes of drug remained in the same position as in 2001. Cholesterol lowering statins were first, with sales of \$12.5bn and 6.5% of the total market share.

Pharmaceutical companies' sales of new products were worth \$156m in 2002. Among the top selling new products were oxaliplatin (Eloxatin), Sanofi-Synthelabo's colorectal cancer drug, worth \$75.6 million in sales; fulvestrant (Faslodex), AstraZeneca's injectable treatment for breast cancer, worth \$23.6m; and tegaserod (Zelnorm), Novartis's drug for irritable bowel syndrome, worth \$14m.

Scott Gottlieb *New York*

The reports can be accessed at [www.ndchealth.com/pharmatrends](http://www.ndchealth.com/pharmatrends) and [www.ims-global.com/insight/insight.htm](http://www.ims-global.com/insight/insight.htm)

## No closer to understanding racial bias, admits GMC

A debate at the General Medical Council last week into a report of racial bias in the council's treatment of complaints against doctors who qualified outside the United Kingdom resulted in a unanimous agreement by the council to tackle the issues with utmost urgency.

The report, which based its conclusions on a statistical review of cases over the past five years, was the third of its kind to be commissioned by the GMC from the Policy Studies Institute, London, since 1996 (22 February, p 411).

Again, the report highlights that doctors who qualified outside the United Kingdom who are referred to the GMC are more likely than UK qualified doctors to face the professional conduct committee, to be found guilty of serious professional misconduct, and to be struck off the register.

The council voted to begin assessing the practical implica-

tions of carrying out a pilot anonymisation study, which would involve the removal of the doctor's name from all papers and evidence presented to the GMC on receipt of a complaint.

Sally Hargreaves *London*

## GMC stalls on publication of Colman report

The General Medical Council decided last week not to put the independent report into the conduct of council member Jennifer Colman into the public domain until ongoing legal issues have been resolved.

The long awaited report of the inquiry led by George Staple QC, a leading City of London lawyer and former head of the Serious Fraud Office, was made available to council members in February. The report, which so far has cost the GMC £500 000 (\$790 000; €730 000), details a year long investigation into Dr Colman's role on the council and a series of issues that have arisen since her election to the GMC in 2000.

Dr Colman claims she has been prevented from sitting on committees and subjected to a whispering campaign since she told the Charity Commission in 2002 that fellow members of the council had fiddled expenses.

In December 2001 Dr Colman launched a claim at the High Court against the GMC for £5.2m (14 December, p 1380) for loss of earnings, pain and distress, injury to her feelings and reputation, and aggravated damages. The GMC is seeking to have the claim struck out.

The High Court hearing is set for 12-13 May.

Sally Hargreaves *London*

## Negotiators go on the road to explain the proposed GP contract

A series of roadshows around the United Kingdom has begun this week to explain to GPs how the proposed GP contract will work. It will be followed by a ballot, which is due to be concluded

by 11 April.

Two weeks ago GP leaders unveiled the headline figures, which include a potential 50% pay hike for family doctors (*BMJ* 2003;326:465). The 99 page document sent out subsequently gives fuller details. If accepted, the contract will run from April this year.

The contract puts the flesh on the bones of the quality indicators that GPs will have to achieve if they want to win extra money. There are 147 indicators covering clinical areas such as the management of coronary heart disease, hypertension, diabetes, and asthma. They also cover areas such as length of consultation, communication with patients, and practice management.

Practices can earn a maximum of 1050 points, with each point worth £75. In 2005-6 this figure will rise to £120.

Anne Gulland *London*

The contract can be downloaded from [www.nhsconfed.org/gmscontract](http://www.nhsconfed.org/gmscontract)

## Scotland to reorganise health care

Scotland's 23 acute and primary care trusts are to be abolished in the latest set of NHS reforms, which are designed to create services that are more integrated. Clinical staff are to be given greater responsibility for redesigning services.

The changes are contained in a white paper on health, and they mark a clear difference in emphasis from the development of health services in England. Scotland has rejected the idea of creating foundation hospitals, which are seen as potentially divisive.

Scotland's 15 health boards will manage all services in future. Trusts are expected to remain as distinct operational units in the short term, but over time closer integration between local acute and primary care services is expected.

Bryan Christie *Edinburgh*

*Partnership for Care* is available at [www.scotland.gov.uk/publications](http://www.scotland.gov.uk/publications)

## University is criticised for accepting tobacco money

David Spurgeon *Quebec*

The University of St Michael's College at the University of Toronto has been severely criticised for having accepted a \$C150 000 (£64 000; \$101 000; €93 000) grant from Imperial Tobacco in 2001. The grant was to help fund the college's corporate social responsibility programme in its continuing education department.

Atul Kapur, president of Physicians for a Smoke-Free Canada, issued a statement saying: "We fail to understand why a university would agree to partner with 'big tobacco.' We have no alternative but to ask the university to make a choice between embracing the interests of public health or legitimising an industry whose behaviour has led to the deaths of hundreds of thousands of Canadians."

Students at the university were also up in arms. Rocco Kusi-Achampong, president of the Student Administrative Council, said that at a board meeting members unanimously voted to send a letter to University of Toronto officials deploring the grant and asking that the money be returned.

Richard Alway, the president of St Michael's College, said that the donation was made with no strings attached, that no special recognition was given to the tobacco company for the dona-

tion, and that the company had no impact on the programme's design, content, or presentation.

However, when the issue was raised by Physicians for a Smoke-Free Canada and the Non-Smokers' Rights Association at a press conference that the two groups organised last November, Alway took the matter to the college's board of governors and recommended that the board authorise a review of existing University of Toronto policy, under which the grant had been accepted.

That policy says simply that donations may be accepted from any legitimate, taxpaying company doing business in Canada. Alway asked whether the policy was adequate or whether it should include more restrictive conditions. A review committee was set up late last year and will report, possibly, by June.

"There are 20 other universities that accepted tobacco money in 2001 in Canada," Alway says. "I think the questions raised are legitimate, and we're trying to deal with them."

Physicians for a Smoke-Free Canada and the Non-Smokers' Rights Association paid for a four page advertisement (below) in the University of Toronto students' newspaper, the *Varsity*, urging all universities to break ties with tobacco companies. □

**POSSIBLE SOURCES OF FUNDING FOR ST. MICHAEL'S COLLEGE IN THE UNIVERSITY OF TORONTO**

 Source: Broadway Party Product: New Orleans, Texas	 Source: St. Michael's Product: Academic Studies, Montreal
 Source: Richard Alway Product: Human Rights, Legislation	 Source: Tobacco Industry Product: Study on Corporate Social

**TAKE BIG TOBACCO OUT OF UNIVERSITIES**